



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/528,098	03/16/2005	Jurg Vogt	41281.0009	5829

7590 09/07/2006
David L Principe
Hodgson Russ
Suite 2000
One M&T Plaza
Buffalo, NY 14203-2391

EXAMINER

NICHOLSON III, LESLIE AUGUST

ART UNIT	PAPER NUMBER
----------	--------------

3651

DATE MAILED: 09/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/528,098	Applicant(s) VOGT, JURG	
	Examiner Leslie A. Nicholson III	Art Unit 3651	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 August 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments and Amendments

1. Due to Applicant's amendments, all previous objections to the drawings and specification are hereby withdrawn as well as all previous rejections under 35 USC 112 2nd paragraph.

Applicant's arguments with respect to claims 1-15 have been considered but are moot in view of the new ground(s) of rejection. However, Applicant's arguments regarding claims 5 in view of Tanimoto and claims 7 and 8 in view of Nord have been fully considered but they are not persuasive. Nord was used only to teach a top coating of anti-bacterial means and nothing else. Tanimoto was used only to teach the textile ply being non-woven and nothing else.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1,2,4,6,9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Foti USP 4,109,543.

Foti discloses a conveyor belt comprising:

Art Unit: 3651

- A textile ply with a first and second ply surface (fig.3)
- A first plastic layer (19), which adheres to the first ply surface, of a thermoplastic plastic
- A second plastic layer (20), which adheres to the second ply surface, of a thermoplastic plastic
- The two layers consist of the same thermoplastic plastic (C6/L3-9)

Foti does not disclose specific values for the creeping strength or percent weight of a non-crosslinked thermoplastic or the value of the quotient r_v or the percent by weight of the thermoplastic plastics in the plastic layers, or the separation resistance between a layer and textile ply, or the width of the belt. However, one of ordinary skill in the art is expected to routinely experiment with the parameters, especially when the specifics are not disclosed, so as to ascertain the optimum or workable ranges for a particular use. Accordingly, it would have been obvious through routine experimentation and optimization, for one of ordinary skill in the art to use a thermoplastic material having a creeping strength of at the most 0.005 at 30° C, which contains at least 70% by weight of a non-crosslinked thermoplastic with a creeping strength of at the most 0.005 at 30°C, with the proviso that the quotient r_v gives a value in the range of 5 to 25, and the thermoplastic plastics of the plastic layers each containing at least 95 percent by weight of a thermoplastic, and the separation resistance between a layer and textile ply at least 2.5 N/mm, and the belt having a width of 50 to 5000 mm.

Art Unit: 3651

4. Claims 3,14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Foti USP 4,109,543 in view of Kuhr PGPub 2003/0050573.

Foti discloses all the limitations of the claim, but does not expressly disclose the thermoplastics selected from the group consisting of TPE-A, TPE-E, TPE-U.

Kuhr teaches the thermoplastics selected from the group consisting of TPE-A, TPE-E, TPE-U for the purpose of using a material with the handling properties of elastomers and the processing properties of thermoplasts (§0031).

At the time of invention it would have been obvious to one having ordinary skill in the art to select the thermoplastics from the group consisting of TPE-A, TPE-E, TPE-U, as taught by Kuhr, in the device of Foti, for the purpose of using a material with the handling properties of elastomers and the processing properties of thermoplasts

5. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Foti USP 4,109,543 in view of Tanimoto USP 3,616,164.

Foti discloses all the limitations of the claim, but does not expressly disclose the textile ply being non-woven.

Tanimoto teaches the textile ply being non-woven for the purpose of providing a conveyor belt which exhibits sufficiently higher strength and lower elongation in the longitudinal direction (C1/L4-53).

At the time of invention it would have been obvious to one having ordinary skill in the art to have the textile ply being non-woven, as taught by Tanimoto, in the device of

Art Unit: 3651

Foti, for the purpose of providing a conveyor belt which exhibits sufficiently higher strength and lower elongation in the longitudinal direction.

6. Claims 11,12,13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Foti USP 4,109,543 in view of Yu USP 5,714,290.

Foti discloses all the limitations of the claim, but does not expressly disclose the belt having a butt end-to-end joint or two butt ends or welding together of the butt ends.

Yu teaches the belt having a butt end-to-end joint and two butt ends and welding together of the butt ends for the purpose of producing a thin and narrow seam (C2/L5-6).

At the time of invention it would have been obvious to one having ordinary skill in the art to employ the belt with a butt end-to-end joint, two butt ends, and to weld the butt ends together, as taught by Yu, in the device (or method) of Foti, for the purpose of producing a thin and narrow seam.

7. Claims 7,8,15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Foti USP 4,109,543 in view of Nord USP 6,921,502.

Foti discloses all the limitations of the claim, but does not expressly disclose anti-bacterial means in the layer or the optional top coating.

Nord teaches anti-bacterial means in the layer or the optional top coating for the purpose of keeping the top coating mostly free of bacteria (C16/L14-16).

Art Unit: 3651

At the time of invention it would have been obvious to one having ordinary skill in the art to employ anti-bacterial means in the layer or the optional top coating, as taught by Nord, in the device of Foti, for the purpose of keeping the top coating mostly free of bacteria

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.


9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Leslie A. Nicholson III whose telephone number is 571-272-5487. The examiner can normally be reached on M-F, 8:30 AM - 5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Crawford can be reached on 571-272-6911. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3651

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

L.N.
8/31/2006


GENE O. CRAWFORD
SUPERVISORY PATENT EXAMINER